



## **H.R.1252 - Federal Price Gouging Prevention Act**

### **Floor Situation**

H.R. 1252 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Bart Stupak (D-MI) on February 28, 2007. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor. This legislation has not been considered by any committee in the 110<sup>th</sup> Congress.

H.R. 1252 is expected to be considered on the floor on May 23, 2007.

### **Summary**

H.R. 1252 seeks to set in place measures to prevent price gouging. It makes "price gouging," as defined by attempting to sell crude oil, gas, or natural gas at a price that is "unconscionably excessive" and if the price is unfair given the market in which the gas is being sold, punishable by fines or jail time. These offenses can be "real or perceived".

*\*Note: Committee Republicans expect the legislation to be amended on the Floor to remove "real or perceived" from the legislation. The amended version will make it illegal to sell gas at a price that is "unconscionably excessive" and indicates the seller is taking unfair advantages of circumstances relating to an emergency.*

Additionally the legislation allows for civil action to be taken against companies that violate the Act. The fines allowed under this section are 3 times the profit earned from the infraction or a fine of not more than \$3,000,000 dollars. The legislation states that each day the company continues to keep its prices artificially high will be considered a separate offense. These will be civil fines and the fines levied will go to the treasury into a fund to be known as the Consumer Relief Trust Fund. This fund will be used (as much as possible within the scope of appropriations) to provide assistance under the Low Income Home Energy Assistance Program administered by the Secretary of Health and Human Services.

H.R. 1252 allows the FTC to intervene whenever these "unconscionably excessive" situations arise and, if a corporation is found to be in violation, may levy a fine up to \$150,000,000. If the violator is found to be a single person or persons, the fine may not exceed \$2,000,000 or imprisonment of up to 10 years. These are considered criminal charges.

This legislation allows Attorney General's to pursue civil action against companies or individuals that violate the above rules.

*\*Note: Committee Republicans are concerned this allows Attorney Generals to deputize "trail lawyers" to go after individuals or companies found in violation.*

### **Background**

In 2005, after Hurricanes Katrina and Rita, concerns rose in the government that price gouging was occurring in the regions affected by the hurricanes. The federal government responded by passing several bills. "The Energy Policy Act of 2005" (H.R. 6) instructed the Federal Trade Commission (FTC) to examine gas and oil companies for evidence of price gouging. In May of 2006 the FTC released its report and stated that generally gas and oil companies behave in a competitive manner. Some very minor instances of price gouging were found to have occurred and were addressed.

The 109<sup>th</sup> Congress also passed H.R. 5253, the "Federal Energy Price Protection Act of 2005". H.R. 5253 was introduced by Representative Heather Wilson (R-NM) and passed the House 389 – 34 ([Roll no. 115](#)). H.R. 5253 and H.R. 1252 are similar but the current legislation (H.R. 1252) defines price gouging within the legislation whereas H.R. 5253 left the definition to the FTC.

*\*Note: According to the Republicans on the Committee, H.R. 1252 has "no clear definition of what constitutes "price gouging." The prohibited behavior of "unconscionable pricing" or a price that is "grossly excessive". If the legislation became law, it would likely be found to be unconstitutional on the grounds that it is "void for vagueness."*

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**Cost**

The Congressional Budget Office (CBO) has not scored H.R. 1252.

**Staff Contact**

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